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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 705

JOSEPH Q. CIPRIANO,

Appellant,

versus

CITY OF HOUMA, G. LESLIE BROUSSARD, Mayor, CHRISTIAN L. OLIVIER, CHARLES DAVIDSON, PETER BOURGEOIS, JR., SAMUEL LUSCO and WILBERT P. BONVILLAIN,

Appellees.

On Appeal from the United States District Court for the Eastern District of Louisiana

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BRIEF FOR THE APPELLANT

May It Please the Court:

The appellant, pursuant to United States Supreme Court Rules 40 and 41, files his brief on the merits together with a Single Appendix prescribed by Rule 36.

OPINIONS BELOW

The District Court delivered a written opinion and dissenting opinion on July 15, 1968, and entered Judgment on July 23, 1968. The judgment and opinions are reported in 286 F. Supp. 823 (1968). Copies of the opinions and judgment are attached to the jurisdictional statement, as Appendices B and C.

JURISDICTION

The appeal herein is from a final decree made and entered by the United States District Court for the Eastern District of Louisiana specially constituted under 28 U. S. Code, Sections 2281 and 2284, upon the plaintiff's application for a temporary and permanent injunction to restrain the enforcement, administering, execution of, or the giving effect to provisions of the Constitution and statutes of the State of Louisiana which require the ownership of property and the payment of taxes thereon as a qualification or a condition precedent to voting in elections in Louisiana as repugnant to the due process and equal protection clauses of the Fourteenth Amendment of the Constitution of the United States.

The application of plaintiff further sought a Judgment declaring the aforementioned provisions of the Constitution and statutes of the State of Louisiana to be void and repugnant to the same clauses of the Fourteenth Amendment of the Constitution of the United States and particularly declaring void an election held by the City of Houma, Louisiana, on October 24, 1967, pursuant to the aforementioned constitutional and statutory provisions of the State of Louisiana.

The final decree appealed from was made on July 23, 1968 and entered on July 25, 1968. Notice of appeal was

filed in the United States District Court for the Eastern District of Louisiana on September 6, 1968.

The Supreme Court of the United States has jurisdiction to review by direct appeal the Judgment complained of by the provisions of 28 U. S. Code, Sections 1253 and 2101(b).

Probable jurisdiction was noted in this case on January 27, 1969.

STATUTES, RULES AND REGULATIONS INVOLVED

Statutes and constitutional provisions involved are Louisiana Constitution, Article 14, Section 14 (m) (West La. Const. Vol. 3, Page 42); Sub-Part C-Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes (West LSA-R.S. 33:4251-4262, Vol. 20A, Pages 178-186), and Part II, Chapter 4, Subtitle II, Title 39 of the Louisiana Revised Statutes (West LSA-R.S. 39:501-518, Vol. 22, Pages 685-730), all of the above cited being annexed hereto, as Appendix A.

The three-judge District Court held the above statutes to be constitutional, with a dissent to said decision rendered by the panel Judge from the Fifth Circuit Court of Appeals.

QUESTIONS PRESENTED

Article 14, Section 14(m) of the Louisiana Constitution of 1921 provides that " . . . The Legislature may, in its discretion, require an election by the tax-paying voters of the subdivision or district as a condition precedent to the issuance of such bonds, in which case the voters' qualifications shall be governed by the provisions of this Section XIV pertaining to other bond elections . . . "

Pursuant to the above constitutional provisions, La. R.S. 33:4251-4262 were enacted and which, by reference, incorporated La. R.S. 39:501-518.

The above cited constitutional and statutory provisions set forth the procedure for revenue bond elections in corporate municipalities in the State of Louisiana, which provisions require that the voters be property-owning taxpayers. The applicable statutes provide that any bonds issued thereunder shall be repaid solely and exclusively from the income and revenues of the utility acquired, constructed, or improved with the monies derived from the sale of such bonds. The principal question presented is:

> Whether the above cited constitutional and statutory provisions of the State of Louisiana are unconstitutional and in violation of the due process and equal protection requirements of the Fourteenth Amendment of the Constitution of the United States insofar as they require the ownership of property and the payment of taxes thereon as a qualification to vote in a revenue bond election, which election cannot, either directly or indirectly, impose any tax or other burden on property-owning taxpayers.

STATEMENT

Joseph Q. Cipriano, appellant herein, is a duly registered and qualified voter in the City of Houma, Parish of Terrebonne, State of Louisiana but does not own any real property nor does he pay any municipal ad valorem taxes on any such property. On September 12, 1967 the defendants, the Mayor and Board of Aldermen of the City of Houma, Louisiana, adopted the resolution ordering and calling a special election to be held in the City of Houma, State of Louisiana pursuant to Part II, Chapter 4, Title 39, Section 508 (La. R.S. 39:508), and Sub-Part C, Part I, Chapter 10, Title 33, Section 4258 (La. R.S. 33:4258) of the Lou-

isiana Revised Statutes of 1950, and Article 14, Section 14(m) of the Louisiana Constitution of 1921 to authorize the issuance of utility revenue bonds by said city in the amount of $10,000,000.00. Under the terms of the above resolution the election was specifically limited to resident property taxpayers of the City of Houma.

The election was held on October 24, 1967, pursuant to the resolution adopted on September 12, 1967 and further pursuant to the authorities hereinabove stated. The Mayor and Board of Aldermen met on October 25, 1967 and canvassed the returns of the election and declared the results thereof. In said election, 1,828 voters representing $2,736,258.00 in assessed valuation voted in favor of the proposition and 896 voters representing $1,108,268.00 in assessed valuation voted against the proposition.

Appellant is a member of a class of 6,926 duly qualified and registered non-property-taxpaying voters in the City of Houma, all of whom are similarly situated and entitled to bring a class action under Rule 23 of the Federal Rules of Civil Procedure. Appellant and all members of this class were prohibited from voting in the election held in the City of Houma on October 24, 1967 because of the statutory provisions of Louisiana law requiring that a voter be a qualified resident property taxpayer of the City of Houma.

During the year 1967 the total number of residents of the City of Houma was approximately 35,000. The total number of registered voters in the City of Houma on October 24, 1967 was 11,606. The total number of property taxpaying voters on October 24, 1967 in the City of Houma was 4,680. The total number of non-property-taxpaying

registered voters on October 24, 1967 in the City of Houma was 6,926.

Plaintiff, appellant herein, brought this action in the United States District Court of the Eastern District of Louisiana, New Orleans Division, as a class action under Rule 23 of the Federal Rules of Civil Procedure.

Appellant sought a Declaratory Judgment under Title 28, Section 2101 and 2102 to have declared void and unconstitutional and in conflict with the equal protection and due process clause of the Fourteenth Amendment of the Constitution of the United States, the provisions of the statutes and Constitution of Louisiana which have the effect of requiring ownership of property and the payment of taxes thereon as a condition of voting in revenue bond elections wherein there are no tax involvements.

Appellant further sought an injunction under the provisions of Title 28 of the United States Code, Section 1343 (3), (4), Title 42, United States Code, Sections 1981 through 1985 and under the provisions of Rule 65 of the Federal Rules of Civil Procedure to enjoin the defendants from issuing bonds pursuant to said election of October 24, 1967, and further enjoining the defendants from enforcing, administering or giving any effect to the cited provisions of the Constitution and statutes of Louisiana.

The Trial Court, in a divided opinion, found for the defendants, holding that the cited constitutional and statutory provisions of Louisiana were not so arbitrary or irrational as to be in violation of the Fourteenth Amendment of the United States Constitution. From that Trial Court decision this appeal is made.

ARGUMENT

I.

EFFECT OF METHOD OF RETIREMENT OF BONDS

We make special note of the fact that this is a utility **revenue** bond election called and held under the provisions of Sub-Part C - Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes (La. R.S. 33:4251-4262). The cited statutes provide that the bonds authorized by this election to be issued may be repaid only or exclusively from the income and revenues derived from the operation of the utility, and therefore, **by said limitation, effectively prohibit the imposition of any taxes, ad valorem or otherwise,** which may be used, in whole or in part, to retire any portion of the bonds. Because of this, a property owner should have no greater stake or interest in this election than a non-property owner as neither his property nor his property rights can in any way be adversely affected by the outcome of this election.

The full faith and credit of the issuing authority cannot be affected by a default in the payment of the bonds. La. R.S. 33:4252 provides that the bonds do not constitute an indebtedness or pledge of the general credit of the issuing authority. La. R.S. 33:4253 provides that the **only** security for these bonds is a pledge of the revenues of the utility and does not provide for the mortgaging of any physical assets of the utility or the issuing authority. In the event of default the only recourse provided is receivership of the utility and payment of the bonds from the revenues derived from the operation of said utility.

2.

DISCRIMINATION

It is plaintiff's position that the provisions of the Con-

stitution and statutes of the State of Louisiana requiring the ownership of property and the payment of taxes thereon as a condition of voting in a revenue bond election invidiously discriminate against plaintiff and the members of his class who together represent more than 59% of the registered voters of the City of Houma. (See Stipulation of Facts, paragraph 8. R. p. 36, App. p. 20.)

The case relied upon by plaintiff as controlling this instance is the case of *Harper v. Virginia State Board of Elections*, 383 U. S. 663, 86 S. Ct. 1079 (1966).[1] The Harper case was concerned with the requirement of the payment of a poll tax as a qualification to vote. This case is concerned with the requirement of the payment of a property tax as a qualification to vote.

In Harper this Court concluded that a state violates the equal protection clause of the Fourteenth Amendment whenever it makes the affluence of the voter or the payment of any fee an electoral standard. **"Voter qualifications have no relation to wealth nor the paying or not paying this or any other tax."**

The Court further declared that "... **we must remember that the interest of the State when it comes to voting, is limited to the power to fix qualifications. Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process. Lines drawn on the basis of wealth or property, like those of race ..., are traditionally disfavored.**" (Underscoring ours)

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[1] See also *Pierce v. The Village of Ossining*, 68 Civ. 4150, United States District Court, Southern District of New York, November 1, 1968, wherein a three-judge Federal Court declared unconstitutional a New York statute and a portion of the Village Charter on the grounds that they required property ownership as a condition of voting in a local election which was administrative in nature.

The ruling and reasons of the Harper case are applicable here. All qualified voters must have an equal right and opportunity to vote in any election whether it be to elect a candidate, to adopt a constitutional amendment or to declare on a proposition. No state has the right to impose any qualification or standard which arbitrarily, unfairly or unreasonably discriminates. In the instant case the voter qualification imposed has no relationship to either the intelligent use of the ballot or to the protection of any legitimate interest. The requirement of property ownership and the payment of taxes thereon to vote in elections such as the subject election invidiously allows and invites the property owner to vote himself a lower ad valorem tax rate while imposing the burden of the City's operation on his fellow citizens who are generally of less affluence.

Defendants have contended that the requirement of property ownership and the payment of taxes thereon is a valid requirement because the purpose of such requirement is the valid desire to place a check upon the borrowing by governmental units similar to the check provided by debt limitation. It is obvious that even if the objective of debt limitation is desirable as a general proposition, the requirement of property ownership and tax payment thereon as a qualification to vote in a revenue bond election can in no way achieve that objective, but in fact militates against the achievement of that objective and actually induces the property owning taxpayer to vote favorably on the revenue issue, with its consequent increase in debt, because of his desire to increase the general revenues of the City from a source other than the property tax, and thereby insuring and protecting his low property tax rate at the obvious expense of the non-property owning voter. Unimpeachable and irrefutable evidence that the above-stated result obtained in

this election are the several advertisements run by the City of Houma and placed of record in these proceedings by plaintiff. These advertisements indicate the general tenor of the extensive campaign conducted by the City for the passage of this bond election. The most casual examination of the advertisements, identified as P-1 through P-8, and particularly those identified as P-1 and P-2, shows clearly that the City invited and directed the property owning taxpayer to go out and vote in favor of the issue as a means or method of protecting and/or assuring low property tax rates and clearly emphasized the fact that **no** taxes **could** be added. The foregoing clearly illustrates the invidious discrimination against the non-property owning registered voter by the imposition of property ownership and tax payment thereon as a qualification to vote. This discrimination is the more reprehensible because the average voter, who has no opportunity to study the statutes, is not aware of the fact that the burden of municipal operations is being imposed on him without his having an opportunity to speak on the question.

The record is clear, when the testimony of petitioner is recounted, that the City of Houma (or rather three of the five Councilmen of the City) has the power to tax all of the citizens by increasing utility rates. This, however, is not essential to our case. The **essential point** is that there is discrimination amongst citizens who have an equal interest in the general revenues of the City and that some citizens, without reasonable or rational basis for distinccion, are deprived of their right to vote. There is equality of interest amongst all of the citizens of the City of Houma in a revenue bond election and yet there is no equality in voting rights. The degree of this discrimination is neither minute nor irrelevant. The Court, in Harper, declared **" . . . to introduce wealth or the payment of a fee as**

a measure of voter's qualification is to introduce a capricious or irrelevant factor. The degree of the discrimination is irrelevant." (Underscoring ours)

Unless the ownership of property and the payment of taxes thereon be considered only with reference to the burden imposed by the result of the election, it should not be considered at all. Here we have already shown that there is no possible burden to the property-owning-taxpayer but only the inevitability of advantage.

Under the traditional test for applying the equal protection clause, a statutory classification scheme is considered constitutional if it is based on a real difference and if the classification is relevant to the purpose for which it is made. *Walters v. City of St. Louis*, 347 U. S. 231, 74 S. Ct. 505, 98 L. Ed. 660 (1954). The Trial Court failed to recognize or apply this test. The Trial Court did not determine the legislative purpose for the classification but simply surmised what might have been the legislative reasons for the distinction. No real effort was made to determine the purpose nor to find any relevancy between the purpose and the classification.

It is submitted that the traditional purposes for classifications such as the one at issue has been that of fiscal restraint or check upon borrowing by governmental units. We cannot reasonably conceive of any other purpose. Yet, as we have shown above, the statutory scheme is in no way conducive to the exercise of restraint, but rather induces or promotes the passage of the issue and the incurrence of greater debt.

That the instant classification is completely arbitrary is further demonstrated by the fact that all qualified electors are allowed to vote in some revenue bond elections in

Louisiana regardless of whether they own any property or pay any taxes thereon. Sub-Part B - Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes (La. R.S. 33:4221-4230) allows **all resident electors** to vote in revenue bond elections where the utility property is mortgaged and the revenues are pledged to secure the bonds. Sub-Part D - Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes (La. R.S. 33:4281-4290) allows **all resident electors** to vote in elections to authorize issuance of certificates of indebtedness secured by and repaid exclusively from the revenues of the utility or the franchises thereof.

There is no reason to deny the franchise to the non-property-owning taxpayers under Sub-Part C. The fact that the classification is not used under Sub-Parts B and D is evidence of the fact that it is unnecessary, unwarranted and totally arbitrary as used in Sub-Part C. Yet, in spite of the above referenced Sections, the Trial Court failed to determine the purpose of the classification challenged in the instant case and made applicable in only one of the three instances cited.

3.

PROSPECTIVE OR RETROSPECTIVE EFFECT OF DECISION

A decision by this Court declaring the unconstitutionality of the statutes and provisions of the Louisiana Constitution requiring the ownership of property and the payment of taxes thereon as a condition or qualification to vote in a revenue bond election will in no way affect the financial status of the community, the parish or the State of Louisiana. The statutes attacked herein provide for a sixty (60) day period from the promulgation of the result of any election (LSA-R.S. 33:4260) within which to contest

the election. Once this period has elapsed, no attack can be made on an election held under the provisions of said statutes. After the expiration of said sixty day period, rights may become vested with regard to issuing bonds authorized in any such election. Here, however, the result does not obtain. The sixty day period is provided for the purpose of allowing aggrieved parties time in which to contest the election. Obviously, no rights could be vested in any party until the expiration of the time allowed by the statute. Therefore, no rights have become vested with regard to the election of October 24, 1967.

In order to protect petitioner and other members of his class, it is only necessary that the Court give prospective effect to any judgment rendered herein declaring said statutes unconstitutional. The case of *Linkletter v. Walker*, 381 U. S. 618, 85 S. Ct. 1731 (1965) is ample authority for the proposition that no retrospective effect need be given in the instant case. Although Linkletter involved criminal law, the Court clearly declared that the same rules are applicable in civil litigation. The Court stated that "**. . . no distinction was drawn between civil and criminal litigation is shown by the language used not only in Schooner Peggy, supra, and Chicot County, supra, but also in such cases as State v. Jones, 44 N.M. 623, 107 P. 2d 324 (1940) and James v. United States, 366 U. S. 213, 81 S. Ct. 1052, 6 L. Ed. 2d 246 (1961) . . . .**" (Underscoring ours)

The Court clearly set forth the proposition that **there is no absolute rule of retrospective action in the area of constitutional adjudication.** The Court declared,

> ". . . we believe that the Constitution neither prohibits nor requires retrospective effect. As Justice Cardozo said, 'We think the Federal Constitution has no voice upon the subject.'

> "Once the premise is accepted that we are neither required to apply, nor prohibited from applying, a decision retrospectively, we must then weigh the merits and demerits in each case by looking to the prior history of the rule in question, its purpose and effect, and whether retrospective operation will further or retard its operation. We believe that this approach is particularly correct with reference to the Fourth Amendment's prohibitions . . ."

The Court further stated the rule clearly in the following language: " . . . Thus, the accepted rule today is that in appropriate cases the Court may in the interest of justice make the rule prospective . . ."

Therefore, this Court may declare the statutes unconstitutional and void the election of October 24, 1967, without in any way affecting any election held under those statutes where the sixty day period has previously expired without any attack having been made.

We submit that in the instant election, where every registered voter has an equal stake and interest in the revenues of the City and the utility system owned and operated by it, equal protection demands that every registered voter have an equal opportunity to vote.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Judgment of the Court below should be reversed and that the provisions of the Constitution and statutes of the State of Louisiana which require the ownership of property and the payment of taxes thereon as a condition of voting in revenue bond elections in Louisiana be declared in violation of the Constitution of the United States

and particularly the Fourteenth Amendment thereof and therefore null and void.

It is further respectfully submitted that the election held in Houma, Louisiana on October 24, 1967 be declared null and void and without effect and that an injunction issue against all named defendants, or their successors in office, enjoining the said parties from enforcing, administering or giving any effect to the cited provisions of the Constitution and statutes of Louisiana.

Respectfully submitted,

KENNETH WATKINS
415 Goode Street
Houma, Louisiana
Counsel for Appellant

CERTIFICATE

I hereby certify that a copy of the foregoing Brief for the Appellant has been served on opposing counsel of record by depositing such in the United States Mail, postage pre-paid, addressed to their addresses of record.

Houma, Louisiana, March , 1969.

KENNETH WATKINS

APPENDIX

I. LOUISIANA REVISED STATUTES OF 1950

Title 33—Municipalities and Parishes

Chapter 10—Public Utilities

Part I—Ownership, operation and financing

SUB-PART B. MORTGAGE OF PROPERTY AND PLEDGE OF REVENUES OF UTILITY

§ 4221. Bond issue

Any municipal corporation, the City of New Orleans excepted, or any district created for the purpose of supplying the public with a public utility may, for the purpose of constructing, acquiring, extending, or improving any revenue producing public utility, within or without the limits of the municipality or district, issue bonds secured exclusively, principal and interest, by mortgage on the lands, buildings, machinery, and equipment, and by pledge of the income and revenues of the public utility.

§ 4222. Resolution ordering election; notice of election

Whenever the governing authority of any municipal corporation or district desires to issue bonds to be secured as provided in R.S. 33:4221 it shall, by resolution adopted by a vote of two-thirds of its members, order an election to be held to determine whether or not it is the sense of the qualified resident electors of the municipality or district that the bonds be so issued and secured. The resolution shall set forth specifically the amount of bonds proposed to be issued, the number of years they shall run, the maximum rate of interest which they shall bear, the purpose for which they are to be issued, and a particular description of the property to be mortgaged and the income and revenues which are to be pledged for the security of the bonds, and shall designate the date of the election and the polling places. Notice of the election shall be given by publication

for thirty days in a newspaper published in the municipality or district; or if there be no newspaper published in the municipality or district, then in a newspaper published in the parish. Publication for four successive weeks shall be deemed sufficient if thirty days intervene between the first publication and the date of the election.

If there be no newspaper published in the parish, then the notice may be given by posting for thirty days prior to the election in five public places within the municipality or district. The notice shall embrace substantially all matters required to be set forth in the resolution ordering the election, and shall be signed by the chief executive officer of the municipality or of the district.

§ 4223. Election

Commissioners shall be appointed and the election shall be held and the returns thereof made to the governing authority calling the election and the results promulgated in so far as practicable, in the same manner as provided by law for elections to authorize the issue of bonds secured by special taxes.

§ 4224. Materials for election; form of ballot

The governing authority of the municipality or of the district shall furnish the commissioners of election with a list of electors qualified to vote in the municipality or district, certified by the registrar of voters of the parish, and with ballots, tally sheets, blanks for making returns, and all paraphernalia necessary for properly holding the election. Ballots shall be substantially in the following form: "Shall the governing authority of the (City, Town, Village, ... District) of ..... be authorized to issue bonds in the sum of ..... Dollars, to run for ..... years, bearing interest not exceeding ..... percentum per annum, payable annually or semi-annually, for the purpose of

..... and by pledge of the income and revenue of such property or properties?"

To vote in favor of the proposition, the voter will make a cross mark (X) in the space under the word "Yes" and to vote against it, the voter will make a cross mark (X) in the space underneath the word "No".

YES	NO

§ 4225. Issuance of bonds; execution of mortgage and pledge; remedies in case of default

When the returns of the election have been received and canvassed by the governing authority of the municipality or district, and the results promulgated, if a majority of the qualified electors of the municipality or district, who voted at the election, have voted in favor of the proposition submitted, the governing authority may issue bonds in the amount, running for the number of years, and bearing interest at a rate not exceeding that submitted, for the purpose set forth in the resolution ordering the election, and secure the same by mortgage of the property specifically described in the resolution and by pledge of the income and revenues of the property.

Thereupon the governing authority may, by resolution, empower and direct the chief executive officer of the municipality or district, and its clerk or secretary, to issue, execute, sign, seal, negotiate, and deliver the bonds and to make and execute in the name and under the seal of the municipality or district, an act of mortgage and pledge to secure the payment of the bonds in principal and interest, in accordance with the resolution ordering the election, and when the act of mortgage and pledge has been executed, the property thus mortgaged and the income and revenues

therefrom thus pledged, shall remain mortgaged and pledged for the security of the bonds, in principal and interest, until they have been fully paid and discharged; or, in the alternative, the governing authority of the municipality or district may deposit with the trustee, as provided in the act of mortgage, cash or United States government bonds in a sufficient amount to fully pay the then outstanding bonds and interest thereon, and, upon such deposit being made, the trustee may cancel the mortgage.

In case default is made in payment of bonds, or any of them, in whole or in part, or of any installment of interest thereon, when the same becomes due, the holder of the bonds may proceed against the governing authority of the municipality or district to enforce the pledge of income and revenues and foreclose the mortgage by seizure and sale of the property mortgaged, as if proceeding against a private person. But, bonds issued under the provisions of this Sub-part and the liability arising therefrom shall not be a charge upon the other income and revenues of the municipality or district issuing the bonds, and shall not be included in computing the indebtedness of the municipality or district for the purpose of determining any constitutional limitation.

§ 4226. Contesting election

For a period of sixty days from the promulgation of the result of the election, any person in interest may contest the legality of the election, the bond issue provided for, or the security to be given; after which time no one shall have any right or cause of action to contest the regularity, formality of legality of the election, bond issue, or the security given for the same, for any cause whatever; the legality shall be conclusively presumed, and no court shall have the authority to inquire into such matters.

§ 4227. Sale for less than par or diversion of proceeds prohibited

Bonds issued under the provisions of this Sub-part shall be sold at an interest rate not greater than five per cent per annum. Under no conditions shall they be sold at a price less than par. The proceeds thereof shall not be used for any purpose other than that for which the bonds issued, as set forth in the resolution ordering the election to authorize the issue.

§ 4228. Combination of two or more utilites

Any municipal corporation or district taking advantage of the provisions of this Sub-part may construct, acquire, extend, or improve two or more utilities (whether related or used in conjunction) and issue bonds as provided for herein secured exclusively, principal and interest, by mortgage on the lands, buildings, machinery and equipment and by pledge of the income revenues of the utilities.

§ 4229. Service charge where revenues of garbage or sewerage facilities are pledged

Where the revenues pledged to the payment of bonds under this Sub-part are revenues of a utility comprised of sewerage facilities or garbage facilities, the governing authority of the municipal corporation or district may impose against the owners of all real property in the municipal corporation or district a service charge for the facilities afforded by the utility, which charge shall not be a lien upon the property. The charges to be made shall be in amounts which the governing body shall determine in each year and shall be sufficient to provide for the cost of operating and maintaining the utility and to pay interest on and principal of the bonds secured by the revenues of the utility. No such charge shall be made against the owner of any property which is not benefited by the utility. A list of the names

of all owners against whom charges are made and the amounts of the charge made against each owner shall be certified by the governing authority to the official charged with the assessment of taxes against such property at such time and in such manner in each year so as to permit the amount of the charge to be carried upon the assessment roll of the real property in the municipal corporation or district. Each such charge shall be carried on the roll as a special item due by the owner of the property individually, and shall be identified on the roll as "Special Sewerage Charge or Special Garbage Charge, as the case may be, of ..... (inserting the name of the municipal corporation or district)." Such charges shall be paid to the official who collects the general taxes assessed against the real property located in the municipal corporation or district and shall be paid at the same time and in the same manner as general taxes are paid. Where the ownership of real property changes the municipal corporation or district may require any subsequent owner seeking sewerage or garbage service to apply therefor by proper application, whereupon the charges to be so imposed against such owner shall be assessed and collected in the manner hereinabove provided. The municipal corporation or district may pay the tax collecting official the same commission on the amounts collected by him as he receives for the collection of ad valorem taxes, and may pay the assessing official a sum sufficient to reimburse him for the additional expense occasioned by reason of listing the charges on the assessment roll. The amounts to be so paid to the assessor and collector shall be considered one of the costs of operating and maintaining the utility.

§ 4230. Commission of tax collector as part of maintenance cost

The governing authority of any municipality or dis-

trict may include in the maintenance cost of any sewerage or garbage district a sum sufficient to allow to the tax collector of the parish the same commission on the amount of the annual charges collected by him hereunder which the tax collector ordinarily receives under the existing laws for the collection of ad valorem taxes, and a sum sufficient to reimburse to the municipality or district and to the tax assessor the extra expense to which these authorities are subjected in levying and collecting the charges, the amount of which reimbursement in each case is to be fixed and determined by the governing authority.

SUB-PART C. PLEDGE OF REVENUES OF UTILITY

§ 4251. Bond issue

Any municipal corporation or any parish or any other political subdivision or taxing district authorized to issue bonds under Section 14, Article 14, of the Constitution of Louisiana, all of which are hereinafter in this Sub-part referred to as "municipal corporation" or "municipality" may, in order to construct, acquire, or improve a revenue producing public utility, either within or without its boundaries, obtain funds for the purpose by issuing revenue bonds. For the purposes of this Sub-part, the governing body of the municipal corporation shall be the body empowered to authorize and issue other bonds of the municipal corporation under the provisions of Section 14, Article 14, of the Constitution of Louisiana and Title 39, Subtitle 2, Chapter 4.

§ 4252. Requisites of Bonds

Bonds issued under this Sub-part shall be authorized by resolution of the governing body and shall be payable solely from the income and revenues to be derived from the operation of the utility. The bonds shall not constitute an

indebtedness or pledge of the general credit of the municipal corporation within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. They shall be in coupon form but may be made registerable as to principal if so provided in the resolution authorizing the issuance. The bonds shall be in the denomination of one hundred dollars or a multiple thereof, shall bear interest at a coupon rate not exceeding six per cent per annum, shall mature serially or otherwise in the manner provided by the governing body, but not later than forty years from their date, and shall be made payable at the place provided by the governing body. They may be made redeemable at the option of the issuing municipality prior to maturity at the premium (not greater than ten per cent of the principal amount thereof) which the governing body determines. The bonds shall be signed by the presiding officer and attested by the secretary or clerk of the municipality under the official seal of the municipality, in the manner provided in the resolution authorizing their issuance. Interest coupons to be attached thereto may be executed with the facsimile signature of the officers, and in the event that any officer whose signature appears on the bonds or coupons ceases to hold office before the delivery of the bonds to the purchaser, his signature shall nevertheless be valid and sufficient for all purposes. The bonds shall be sold in the manner and at the times which the governing body determines, except that in no event shall the bonds be sold at a price of less than par or bear an interest rate of greater than six per centum per annum.

§ 4253. Pledge of revenues of utility; receivership

Any bonds issued under this Sub-part shall be payable from and secured by the pledge of the revenues derived from the operation of the utility constructed, acquired, ex-

tended or improved with the proceeds thereof, subject only to the prior payment of the reasonable and necessary expenses of operating and maintaining the utility. Any holder of the bonds or of any of the coupons thereto attached may by appropriate legal action compel performance of all duties required of the governing body and officials of the municipal corporation by the provisions of this Sub-part. If any bond issued hereunder is permitted to go into default as to principal or interest, any court of competent jurisdiction may pursuant to the application of the holder of the bond, appoint a receiver for the utility, which receiver shall be under the duty of operating the utility and collecting and distributing the revenues thereof pursuant to the provisions and requirements of the resolution authorizing the bonds.

If more than one series of bonds is issued hereunder payable from the revenues of any utility, priority of lien on such revenues shall depend on the time of delivery of the bonds, each series enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently delivered, except that where provision is made in the proceedings authorizing any issue or series of bonds for the issuance of additional bonds in the future on a parity therewith pursuant to procedure or restrictions provided in such proceedings, additional bonds may be issued in the future on a parity with such issue or series in the manner so provided in such proceedings. (As amended Acts 1955, No. 72, § 1; Acts 1956, No. 17, § 1.)

§ 4254. Bonds to constitute negotiable instruments

All bonds issued under the provisions of this Sub-part shall constitute negotiable instruments within the meaning of the negotiable instruments law.

§ 4255. Sinking fund

Any resolution authorizing the issuance of bonds hereunder shall provide for the creation of a sinking fund into which shall be paid from the revenues of the utility, subject only to prior payment of the reasonable and necessary expenses of operating and maintaining the utility, sums fully sufficient to pay the principal and interest of the bonds, and to create such reserve for contingencies as may be required by the resolution. The moneys in the sinking fund shall be applied to the payment of interest on and principal of the bonds or to the purchase or retirement of the bonds prior to maturity in the manner provided in the resolution.

The resolution authorizing their issuance may contain such covenants with the future holder of the bonds as to

(1) the management and operation of the utility,

(2) the imposition and collection of fees and charges for the products, commodities or services furnished thereby,

(3) the disposition of such fees and revenues,

(4) the issuance of future bonds and the creation of future liens and encumbrances against the utility and the revenues thereof,

(5) the carrying of insurance on the properties constituting the utility,

(6) the disposition of the proceeds of any such insurance, and

(7) other pertinent matters, deemed necessary by the governing body to assure the marketability of the bonds, provided such covenants are not inconsistent with the provisions of this Sub-part.

§ 4256. Charges for commodities or services provided by utility

When any municipality has issued bonds and has pledged the revenues of any utility for the payment thereof as herein provided, the municipality shall impose and collect fees and charges for the products, commodities and services furnished by the utility, including those furnished to the municipality itself and its various agencies and departments, in such amounts and at such rates as shall be fully sufficient at all times to (1) pay the expenses of opperating and maintaining the utility, (2) provide a sinking fund sufficient to assure the prompt payment of principal of and interest on the bonds as each falls due, (3) provide such reasonable fund for contingencies as may be required by the resolution authorizing the bonds, and (4) provide an adequate depreciation fund for repairs, extensions and improvements to the utility necessary to assure adequate and efficient service to the public. No board or commission other than the governing body of the municipality shall have authority to fix or supervise the making of these fees and charges.

§ 4257. Property of two or more utilities may be pledged

The governing body of the municipality may authorize bonds under this Sub-part payable from the revenues to be derived from two or more utilities owned and operated by the municipal corporation (whether or not such utilities are related or used in conjunction) for the purpose of constructing, acquiring, extending or improving any one or more of the utilities.

§ 4258. Election to authorize issuance of bonds

Before the resolution authorizing the issuance of bonds under this Sub-part is adopted by the governing

body, the question of the issuance of the bonds shall be submitted to and approved by votes of a majority in number and amount of the property taxpayers who vote at an election held hereunder. The proposition may be submitted at either a special or general election and all matters pertaining thereto, including the qualifications of voters and the manner of calling and conducting the election and canvassing and promulgating the results thereof, shall be governed by the provisions of Chapter 4, Sub-title 2, Title 39.

§ 4259. Refunding bonds

The governing body of any municipality which has heretofore issued or hereafter issues bonds payable from utility revenues under the provisions of this Sub-part or any other law may authorize the issuance of bonds for the purpose of refunding, extending and unifying the whole or any part of the principal, interest and redemption premiums on the outstanding bonds. The refunding bonds may either be sold and the proceeds applied to or deposited in escrow for the retirement of the outstanding bonds, or may be delivered in exchange for the outstanding bonds. The refunding bonds shall be authorized in all respects as original bonds are herein required to be authorized, except that no election shall be necessary in the event the refunding bonds are sold at public sale after advertisement in the manner provided by R.S. 39:570 and the annual principal and interest on the refunding bonds is less than the combined annual principal and interest on the bond issue or issues being so refunded, extended and unified. The governing body, in authorizing the refunding bonds, shall provide for the security of the bonds, the sources from which the bonds are to be paid and for the rights of the holders thereof in all respects as herein provided for other bonds issued under the authority of this Sub-part. The governing body may also provide that the

refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the bonds refunded. (As amended Acts 1962, No. 224, § 1.)

§ 4260. Contesting election and bonds; prescription

For a period of sixty days from the date of the promulgation of the result of any election held hereunder, any person in interest may contest the legality of the election, after which time no one shall have any cause of action to contest the regularity, formality or legality of the election for any cause whatever, it shall be conclusively presumed that every legal requirement has been complied with, and no court shall have authority to inquire into such matters after the lapse of sixty days. The resolution authorizing the issuance of bonds shall be published once in a newspaper published in the municipality, or if no newspaper is published therein, then in a newspaper published in the parish in which the municipality is located, or if no newspaper is published in the parish then in a newspaper published in an adjoining parish. For a period of thirty days from the date of the publication any person in interest may contest the legality of the resolution and of the bonds to be issued pursuant thereto and the provisions securing the bonds. After the expiration of thirty days no one shall have any right of action to contest the validity of the bonds or the provisions of the resolution pursuant to which the bonds were issued, and all the bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

§ 4261. Service charge for sewerage and garbage facilities

Where the revenues pledged to the payment of bonds under this Sub-part are revenues of a utility comprised of sewerage facilities, or garbage facilities, the governing

authority of the municipality may each year impose against the owners of all real property in the municipality a service charge for the facilities afforded by the utility, which charge shall not be a lien upon the property. The charges shall be sufficient to provide for the cost of operating and maintaining the utility and paying the interest and principal of the bonds secured by the revenues of the utility. No charges shall be made against the owner of any property which is not benefited by the utility. A list of the names of all owners against whom charges are so made and the amounts of the charge made against each owner shall be certified by the governing authority to the official charged with the assessment of taxes against the property at such time and in such manner in each year as to permit the amount of the charge to be carried upon the assessment roll of the real property in the municipality. Each charge shall be carried on the roll as a special item due by the owner of the property individually and shall be identified on the roll as "Special Sewerage or Garbage Charge of ———— (inserting the name of the municipal corporation)". The charges shall be paid to the official who collects the general taxes assessed against the real property located in the municipality, and shall be paid at the same time and in the same manner as the general taxes are paid. Where the ownership of any real property changes, the municipality may require any subsequent owner seeking sewerage or garbage service to apply therefor, whereupon the charges imposed against the owner shall be assessed and collected in the manner hereinabove provided. The municipality may pay the tax collecting official the same commission on the amounts collected by him as he receives for the collection of ad valorem taxes, and may pay the assessing official a sum sufficient to reimburse him for additional expenses occasioned by reason of listing the charges on the assessment roll. The amounts

to be paid to the assessor and collector shall be considered one of the costs of operating and maintaining the utility.

§ 4262. No restriction of acts authorized

This Sub-part shall constitute full authority for the accomplishment of all acts herein authorized to be done. No other law restricting the carrying out of the acts authorized to be done shall be construed as applying to any proceedings had or acts done pursuant to this Sub-part.

SUB-PART D. CITIES OF 25,000 TO 250,000

§ 4281. Extension or improvement of municipally owned utility by city of 25,000 to 250,000

Any municipality having a population in excess of twenty-five thousand and less than two hundred fifty thousand owning and operating its electric power plant, waterworks, motor coach transportation, and sewerage system, may construct, maintain, extend, rehabilitate, enlarge or improve any municipally owned public utility either within or without its boundaries. In addition the municipality may consolidate and unite any non-revenue bearing utility with one or more revenue bearing public utilities, which, when so united and consolidated, shall be one unit and shall be considered and treated as a single revenue bearing utility.

§ 4282. Issuance of certificates of indebtedness

In order to obtain funds to construct, maintain, rehabilitate, extend, enlarge, or improve the municipally owned public utility the governing authority of the municipality may issue negotiable certificates of indebtedness and secure their payment by a pledge of the revenues and franchises of the revenue producing public utility, provided that the governing authority is first authorized to do so by

a majority of the qualified resident electors of the municipality voting in an election to be held in the manner provided below.

§ 4283. Certificates of indebtedness payable from revenues of utility; form and requisites; redemption; sale

Upon obtaining the authority from a majority of the qualified electors of the municipality voting in the election, the governing body of the municipality may issue negotiable certificates of indebtedness which shall be payable solely from the income and revenues to be derived from the operation of the revenue producing utility of the franchises thereof. These certificates of indebtedness shall not constitute an indebtedness or pledge of the general credit of the municipality within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. The certificates of indebtedness shall be in coupon form, but may be registerable as to principal if so provided in the proceedings authorizing their issuance. The certificates of indebtedness shall be in the denominations of one hundred dollars or a multiple thereof, shall bear interest at a coupon rate not exceeding six per cent per annum, shall mature serially or otherwise, (but shall not mature later than twenty years from the date of issuance) shall be made payable at the place either within or without the state provided by the proceedings authorizing their issuance, and may be made redeemable at the option of the governing authority of the municipality prior to maturity at premiums not greater than ten per cent of the principal amount thereof. The certificates of indebtedness shall be signed by the chief executive officer under the official seal of the municipality in the manner provided in the proceedings authorizing their issuance. Interest coupons to be attached thereto may be executed

with the facsimile signature of such officer, and in the event that any official whose signature appears on the certificates of indebtedness or coupons ceases to occupy his office before the delivery of the certificates to the purchaser, his signature shall nevertheless be valid and sufficient for all purposes. The certificates of indebtedness shall be sold at public sale after thirty days' advertisement in a newspaper in the municipality or in the parish in which the municipality is located, in such manner and at such times as the governing authority may determine, except that in no event shall the certificates be sold at less than their par value.

§ 4284. Pledge of revenues of utility; lien of certificate holders; enforcement of obligations of municipality; receivership

Any certificates of indebtedness issued hereunder shall be negotiable and shall be secured by a pledge of the revenues of all or a portion of the incoming revenues derived from the operation of the revenue producing public utility not otherwise pledged or dedicated. The amount of income and revenue so pledged and dedicated shall be sufficient at all times to pay the principal and interest of the certificates as they mature; but there shall be made proper provisions for the current maintenance and operation of the utility and for establishing a reasonable depreciation and replacement fund. A lien upon the revenues and franchises shall exist in favor of the holders of the certificates of indebtedness, and the holders of the coupons attached thereto for the payment thereof, the lien to be effective until all of the certificates and coupons shall have been paid in full. In the event of default of payment of principal or interest of the certificates or coupons, any holder thereof shall have a preferential right of action to enforce and protect by suit, action, mandamus, receiver-

ship, or other proceedings the lien hereby conferred. He may bring such proceedings to compel performance of all obligations required to be performed by the governing authority of the municipality by the provisions of this Sub-part.

If a receiver is appointed, he shall have an exclusive permit and franchise to maintain and operate the property and by all means to continue to supply to the public the commodities, products, or services theretofore supplied by the utility. He shall have the rights, powers, and privileges enjoyed by the municipality in the operation of the utility. This franchise shall continue for the period (not exceeding twenty years from the date of the receivership) fixed in the proceedings authorizing the certificates and shall not be subject to any statutory limitations pertaining to the granting of municipal franchises, not especially contained in this Sub-part. The receivership shall expire upon the payment in full of the certificates and coupons.

§ 4285. Priority of lien as between different series of certificates

If more than one series of negotiable certificates of indebtedness is issued hereunder, priority of lien and privileges on the revenues of the utility shall depend upon the time of delivery of the certificates, each series enjoying a lien prior and superior to that enjoyed by any other series of certificates subsequently delivered. However, as to any issue or series of certificates which is authorized as a unit to be delivered from time to time in blocks, it may be provided in the proceedings authorizing the issuance of the certificates that all such series or issues shall be equal as to lien and privileges regardless of the time of delivery.

§ 4286. Sinking fund

Whenever any certificates of indebtedness are issued in accordance with this Sub-part, the municipal authority shall provide for the creation of a sinking fund into which shall be paid from the revenues of the utility, subject only to prior payment of reasonable and necessary operation and maintenance expenses, sums fully sufficient to pay the principal and interest on the certificates, and to create reserves for contingencies provided in the resolution and election. The moneys in the sinking fund shall be applied to the payment of the principal and interest of the certificates or to the purchase or retirement of the certificates prior to maturity in the manner provided.

§ 4287. Charges for commodities or services provided by utility

When any municipal corporation has issued certificates of indebtedness hereunder and has pledged the revenues of any utility for the payment thereof, the municipality shall impose and collect fees and charges for the products, commodities, and services performed by the utility, in amounts and at rates fully sufficient at all times to

(1) pay the expenses of operating and maintaining the utility;

(2) provide a sinking fund sufficient to insure the prompt payment of the certificates of indebtedness and interest thereon as they fall due;

(3) provide such reasonable funds for contingencies as may be required; and

(4) provide an adequate depreciation fund for repairs, extensions, and improvements to the utility necessary to insure adequate and sufficient service to the public. There

shall be no charge for services to the municipality itself or to its agencies and departments. The governing authority of the municipality or any duly appointed or qualified receiver shall have the exclusive authority to fix or supervise the making of these fees and charges.

§ 4288. Refunding certificates

The governing authority of a municipality which issues certificates of indebtedness under this Sub-part, may authorize the issuance of certificates of indebtedness for the purpose of refunding outstanding certificates.

Refunding certificates may either be sold and the proceeds applied to the retirement of the outstanding certificates, or may be delivered in exchange for the outstanding certificates. The refunding certificates shall be authorized in all respects as original certificates are herein required to be authorized, and the governing authority shall provide for the security of the refunding certificates and for the rights of the holders thereof in all respects as those herein authorized to be provided for under the authority of this Sub-part. The governing authority may also provide that the refunding certificates shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the certificates refunded.

§ 4289. Election to authorize issuance of certificates of indebtedness; resolution; notice of election; ballots; election contests

Whenever the governing authority of a municipal corporation desires to issue certificates of indebtedness as provided herein, it may, by resolution adopted by a vote of two-thirds of the members of the governing authority, order an election to be held to determine whether or not it is the wish of the qualified resident electors of the munic-

ipality that the certificates of indebtedness be so issued and secured. The resolution shall state specifically the amount of the certificates of indebtedness proposed to be issued, the number of years that they are to run, the maximum rate of interest they shall bear, the purpose or purposes for which they are to be issued, a description of the properties for which they are to be issued, a description of the properties of which the incomes and revenues are to be pledged for the security of the certificates of indebtedness, and shall designate the date of the election and the polling places.

Notice of the election shall be given by publication for thirty days in a newspaper published in the municipality or in the parish in which the municipality is situated. The notice shall embrace substantially all matters required to be set forth in the resolution requiring the election and shall be signed by the chief executive officer of the municipality.

The election shall be held in accordance with the rules and regulations for general state elections. Ballots shall be substantially in the following form:

"Shall the governing authority of the City of ..... be authorized to issue certificates of indebtedness in the sum of ..... Dollars to run for ..... years, bearing interest not to exceed ..... per centum per annum, payable (annually or semiannually) for the purpose of ....., to be secured by a pledge of income, revenues, and franchises of .....?"

To vote in favor of this proposition the voter will make a cross mark (X) under the word "Yes" and to vote against it, the voter will mark a cross mark (X) in the space underneath the word "No".

YES	NO

Any person interested shall have the right to resort to the district court of the parish in which the municipality is situated on order to contest the election or the issuance of certificates thereby authorized, provided suit is filed within sixty days from the date of promulgation of the returns of the election. After this time no court shall entertain the suit.

§ 4290. Procedure provided not exclusive; other laws inapplicable

The procedure provided for in this Sub-part shall not be exclusive. But no other provisions of law pertinent to the construction, acquisition, extension, or improvement of public utilities, or to the issuance of certificates of indebtedness, the granting of franchises, the creation of pledges, or the adoption of proceedings by the governing authority shall be construed as applying to any proceedings had or acts done under this Sub-part.

Title 39—Public Finance

Chapter 4—Bonded Indebtedness and Special Elections

PART II. ELECTIONS

§ 501. Elections

Except as otherwise provided in special cases, no subdivision may incur any debt, issue any bonds, levy any special tax, or assume any indebtedness unless it has been authorized by vote of a majority in number and amount of the property taxpayers qualified to vote under the constitution and laws of this state who vote at an election hereunder. The governing authority of any subdivision may call a special election for any of these purposes at any time; and it shall call an election for any of these purposes when requested so to do by the petition in writing

of one-fourth of the property taxpayers eligible to vote at the election.

§ 502. Resolution calling election

The election shall be ordered by resolution which shall state the purpose for which it is called.

If the proposition is to incur debt and issue negotiable bonds under Part III of this Chapter,[1] the purpose for which the debt is to be incurred, the amount of the debt, the number of years for which the bonds are to run, and the maximum rate of interest to be paid shall be stated.

If the proposition is to levy a special tax under Part IV of this Chapter,[2] the rate, object, and purpose for which the tax is to be levied, and the number of years it is to run must be stated. ([1]R.S. 39:551—39:670. [2]R.S. 39:701—39:706.)

§ 503. Notice of election

Notice of the election shall be given embracing substantially all matters required to be set forth in the resolution ordering the election, and shall set forth further that the authorities ordering the election will, in open session, at an hour and place named, proceed to open the ballot boxes, canvass the returns and declare the result. The notice shall be published for thirty days in a newspaper published in the subdivision; or if there is no newspaper published therein, in a newspaper published in the parish; or if there is no newspaper published in the parish, in a newspaper published in an adjoining parish, and by posting in three public places in the subdivision ordering the election. Four publications in a newspaper once a week, shall constitute a publication for thirty days;

provided thirty days intervene between the date of the first publication and the date of the election.

§ 504. Polling places; ballots

The governing authority ordering the election, shall designate the polling places; provide the ballot boxes; ballots; valuations of property and compiled statement of the voters in number and amount, and fix the compensation of the election officers. It shall appoint for each polling place, three commissioners and one clerk of election, all of whom shall be registered voters.

§ 505. Election officers; substitutes

If any commissioner or clerk of election is unable, or if he fails or neglects to attend or serve at the polling place designated, at the hour fixed for opening, or within one hour thereafter, the commissioners present shall appoint, or in the absence of all commissioners the voters present shall elect the necessary number of commissioners and clerks, who shall have the same powers, compensation and duties, as other commissioners and clerks and shall serve in the place and stead of the absentee or delinquent appointees.

§ 506. Election officers; oaths

Commissioners and clerks of elections, before opening the polls, shall be sworn to perform all the duties incumbent on them as such, the oath to be taken before any officer authorized to administer oaths, or by the clerk, and each commissioner before any other commissioner. The commissioners of election may administer any oath and receive any affidavit provided for in this Chapter.

§ 507. Penalty for violations

The commissioners and clerks of elections held under the provisions of this Chapter shall have the same powers and duties in conducting the elections and in preserving order at the polls as are conferred and imposed upon similar officers under the general election laws of this state. Whatever is declared in the general election laws to be a felony, other crime or misdemeanor, shall be the same for any election held under the provisions of this Chapter and shall be punished in the same manner.

Any wilful failure or neglect to comply with the requirements of this Chapter or any wilful violation by any officer, agent or employee of any subdivision, availing itself of the provisions of this Chapter, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment not exceeding one year, with or without hard labor, or by both fine and imprisonment.

§ 508. Qualiifcations of voters

Only property taxpayers qualified as electors under the constitution and laws of this state are entitled to vote in any election held under the provisions of this Part. The qualifications of taxpayers as voters are those of age, residence, and registration as voters, without regard to sex. There shall be no voting by proxy.

With reference to Part IV of this Chapter[1] if the limits and boundaries of any municipal corporation has been extended and the assessment roll that is to include the property in the extended limits has not already been made for the municipal corporation, those who have become property taxpayers by the extension of the limits and who are otherwise qualified to vote shall be permitted to vote in

the election and the assessed valuation of their property shall be ascertained by reference to the last assessment roll of the parish. (1R.S. 39:701-39:706.)

§ 509. Use of tax receipts

A. In all elections held under the provisions of this Part and in all other elections whatsoever held under any other laws of this state where the only question submitted is the incurring of debt and issuing of bonds or other evidences of debt and/or the question of levying special taxes, the voter shall use his tax receipt as obtained from the tax collector's office in determining the amount of assessment that shall be voted.

B. The registrar of voters shall furnish to the election commissioners appointed to hold such election the precinct binders showing those eligible to vote in said election. A taxpayer entitled to vote in said election shall present to the commissioners of election his tax receipt with the valuation of such taxpayer's property as shown by the assessment roll last made and filed prior to such election; provided, however, that when it is impossible for any taxpayer to present his tax receipt to show the valuation of his property, he shall be permitted to vote by the use of the copy of the tax receipt, which the commissioners shall find in the precinct binders. In case of loss of the original tax receipt and copy thereof, the commissioners of election may receive affidavits of such taxpayer's right to vote and of the proper assessed valuation of his property, which affidavits shall be attached to such taxpayer's ballot.

C. The tax collector in each of the sixty-four parishes shall make tax receipts for each taxpayer at the time the taxes are paid. Such tax receipts shall be made in a minimum of an original and three copies. The original shall go

to the taxpayer and one copy to the registrar of voters, which shall be placed in the proper precinct binder and forwarded to the polls on election day. The additional copies shall be for the use of the tax collector.

D. Notwithstanding any provision of any law to the contrary, the provisions of this Section, with regard to the use of tax receipts shall be applicable at each election in this state in which there is submitted to the qualified property taxpayer of any area of the state the question of incurring debt and issuing bonds or other evidences of debt therefor or the question of levying any tax. (As amended Acts 1964, No. 399, § 2; Acts 1966, No. 500, §§ 2, 3.)

§ 510. Challenging votes

If the vote of any taxpayer is challenged, the commissioners of election shall permit him to vote and shall receive in writing the grounds of challenge signed by the challenger, together with the challenged taxpayer's statement of his asserted right to vote and the challenge and statement shall be attached to the ballot.

§ 511. Form of ballot

If more than one proposition is submitted at the same special election, each proposition shall be so submitted as to enable the voter to vote thereon separately. The ballots to be used at special elections shall be in substantially the following form:

A. FOR THE INCURRING OF BONDED INDEBTEDNESS

Shall .....

(Name of Subdivision)

incur debt and issue bonds to the amount of.....

..... YES

Dollars,

to run ..... years,

from date thereof, with interest, at the maximum rate

of .....

per cent per annum for the purpose of.....

..... NO

Taxable valuation $ .....

.....

(Signature of Voter)

Notice to Voters: To vote in favor of the proposition submitted on this ballot, place a cross (X) mark in the square after the word "YES"; to vote against it, place a similar mark after the word "NO".

B. FOR THE LEVYING A TAX

Proposition to levy a .....
(Rate)

mill

tax on all the property subject to State taxation

in ..... YES
(Subdivision)

for the period of .....
(Term)

for the purpose of.....

---------- NO

(Here state the purpose of the tax)

Taxable valuation $ ----------

(Signature of Voter)

Notice to Voters: To vote in favor of the proposition submitted upon this ballot place a criss (X) mark in the square after the word "Yes"; to vote against it place a similar mark after the word "No".

§ 512. Voting

Each voter's name shall be written on his ballot. The commissioners of election shall receive the ballot of each voter, check his name on the list of voters furnished by the registrar, enter and number his name on the list of taxpayers voting, and immediately deposit his ballot in the ballot box, reserving to each voter the right to so fold his ballot that it shall not be known at the time of voting whether he voted for or against the proposition or propositions submitted. If the election is being held in a parish where the permanent registration laws are in force, the procedure in connection with the precinct registers shall be the same as that provided for in Part X of Chapter 1 of Title 18 of the Louisiana Revised Statutes of 1950.[1] (As amended Acts 1964, No. 399, § 2.) ([1]R.S. 18:231 et seq.)

§ 513. Opening and closing polls

The polls shall open on the day appointed, at seven o'clock a. m., and remain open until and not later than six o'clock p. m. No election shall be vitiated by a failure to open the polls at the time prescribed, or by closing before the time prescribed, unless on a contest, it be established

that voters were thereby deprived of votes sufficient in number and amount to have changed the result of the election.

§ 514. Counting ballots; precinct registers

A. Immediately after the closing of the polls, the commissioners shall, in the presence of the bystanders, open the ballot boxes; count the ballots found there; check the same with the list of voters; proceed to count the votes in number and amount; keep tally sheets in duplicate showing the votes in favor of and against the proposition or propositions submitted, and showing the valuation of property in favor of and against same; and make compiled statements in duplicate of the vote in number and amount, both in favor of and against each proposition or propositions.

B. After swearing to the correctness of the numbered list of voters, the duplicate tally sheet and duplicate compiled statements, the commissioner shall deposit the ballots, the registrar's list of voters, the numbered list of taxpayers voting, one duplicate tally sheet, and one duplicate compiled statement, in the ballot box, immediately seal the ballot box and, within forty-eight hours after the closing of the polls, deliver the sealed ballot box with its contents to the authorities ordering the election. Within the same period they shall deliver the duplicate tally sheet and the duplicate compiled statement to the clerk of the district court of the parish in which the election was held, who shall file them in his office. If the election is being held in a parish where the permanent registration laws are in force, the procedure in connection with the precinct registers shall be the same as that provided for in Part X of Chapter 1 of Title 18 of the Louisiana Revised Statutes of 1950.[1]

C. If the election commissioners on counting the ballots find that they do not correspond with the list of voters, they shall, before examining and counting the ballots, examine them for the purpose of finding the discrepancy and if it should be found that any ballots have been duplicated they shall be destroyed or, if it be found that the name of a voter has been omitted from the list of persons voting, it shall be added to the list. (As amended Acts 1964, No. 399, § 2.) (1R.S. 18:231 et seq.)

§ 515. Canvass of returns

On the day and at the hour and place named in the notice of election, the authorities ordering the election shall in public session open the ballot boxes, examine and count the ballots in number and amount, examine and canvass the returns, and declare the result of the election. The result shall be promulgated by publication in one issue of a newspaper published in the subdivision, or if there is none, in a newspaper published in the parish, or if there is none published in the parish, in the newspaper published in an adjoining parish.

§ 516. Process verbal

The authority ordering the elections shall keep a proces verbal of the canvass and shall forward a copy to the Secretary of State, who shall record it; another copy to the clerk of the district court, who shall record it in the mortgage records; and the remaining copy shall be retained in the archives of the office of the authority ordering the election.

§ 517. Preservation of ballots

The custodian of the archives or records of the authority ordering the election shall preserve for a term of

three months from the date of the promulgation of the election, the ballots and other returns.

§ 518. Contests

For a period of sixty days from the date of promulgation of the result of any election held under the provisions of this Part, any person in interest may contest the legality of the bond issue provided for, the tax authorized or the assumption of debt provided for any cause, after which time, no one may contest the legality, formality or regularity of the election or debt assumption for any cause whatsoever. If the validity of any election is not raised within the sixty days herein prescribed, the authority to issue the bonds, and to levy the tax, or assume the debt and the regularity thereof, shall be conclusively presumed, and no court shall have authority to inquire into such matters.

With reference to Part III (A)[1] of this Chapter, if any resolution adopted or proceeding had more than thirty days after the promulgation of the result of the election, no contest, action or proceeding to question the validity or legality of the resolution or proceeding so adopted shall be begun in any court by any person for any cause whatsoever, after the expiration of thirty days from the date when the resolution was adopted or proceeding had. ([1]R.S. 39:351-39:578.)

II. LOUISIANA CONSTITUTION OF 1921

Article 14—Parochial and Municipal Affairs

Section 14—Subdivisions of State; creation; indebtedness; Bond issues special taxes

(m). Revenue bonds; acquisition, etc., of utilities. For the purpose of constructing, acquiring, extending or improving any revenue-producing public utility, the Legislature may authorize municipal corporations to issue bonds secured exclusively, principal and interest, by mortgage on the lands, buildings, machinery and equipment and by pledge of the income and revenues of such public utility. Such bonds shall not be a charge upon the other income and revenues of the municipality and shall not be included in computing the indebtedness of the municipality for the purpose of any limitation herein.

For the purpose of constructing, acquiring, extending or improving any revenue producing public utility, as defined by the Legislature, the Legislature may authorize any political subdivision or taxing district authorized to issue bonds under the authority of ths Secton 14, excluding municipal corporations, to issue its revenue bonds; which bonds shall be fully negotiable, shall bear interest at a coupon rate not exceeding six per cent per annum, shall mature serially or otherwise not later than forty years from their date, shall not be a charge upon any income or revenue of the district or municipality not derived from the utility, and shall not be included in computing the indebtedness of the subdivision or distrct, for the purpose of any limitation contained in the Constitu-

tion. The Legislature shall provide that any bonds issued hereunder shall be securd by a conventional mortgage on the entire utility so constructed, acquired, extended or improved, and by pledge of the income and revenues thereof, sufficient in amount to pay principal of and interest on said bonds as they severally mature; which security may be foreclosed by seizure and sale of the encumbered property in the manner provided by law for the foreclosure of conventional mortgages, including the right to executory process, and the Legislature shall provide for the granting of a franchise to the purchaser at foreclosure sale, if any, which franchise shall run for a period not exceeding forty years from the date of such sale and shall be subject to any other constitutional or statutory limitations pertaining to the granting of municipal franchises. The Legislature shall also provide that when bonds are issued hereunder, the issuing subdivision or district must impose rates for the services rendered by the utility fully sufficient to operate and maintain the utility, to pay principal of and interest on the bonds, and to provide an adequate fund for depreciation, improvements and extensions, and provisions may be made for encumbering two or more utilities for the construction, acquisition, extension or improvement of any one or more of the utilities encumbered. The Legislature may, in its discretion, require an election by the tax-paying voters of the subdivision or district as a condition precedent to the issuance of such bonds, in which case the voters' qualifications shall be governed by the provisions of this Section XIV pertaining to other bond elections. If the validity of any bonds issued hereunder he not questioned in litigation commenced within thirty days from the date of publication of the ordinance or resolution authorizing the issuance of such bonds, the authority to issue the bonds, the legality thereof, and the security therefor, shall be conclusively presumed and

no court shall thereafter have authority to inquire into such matters. Any law or laws enacted by the Legislature for the purpose of putting this added paragraph to Subsection (m) into effect and which may have been finally passed by the Legislature after the passage of the joint resolution proposing this amendment and prior to the adoption of said amendment by the electors of Louisiana, shall be valid and fully effective if and when said proposed amendment be adopted.